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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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20995	7590	11/04/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			KO, TONY	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			2878	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,815

Applicant(s)

BAUN, KENNETH W.

Examiner

Tony Ko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-38 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 14 and 18-27, 29-34, 37 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Dobbie (US006560029B1).
2. Regarding claim 1-3, 9-13, 18, 25-27, 29-34, 37 and 38, Dobbie discloses (Figs. 7 and 8) a night vision device for viewing a subject in low light conditions comprising a housing having optics to collect light into the housing (the helmet and the device attached to it); an eyepiece (64); an imager (54) positioned to be illuminated by the light, the imager configured to generate an electrical signal representative of an intensity enhanced image of the light; a digital display (14) attached to the housing, the digital display configured to display the intensity enhanced image, wherein the digital display is viewable through the eyepiece. Dobbie also discloses the digital display is disposed within the housing. Dobbie also discloses the eyepiece comprises a flexible eyecup pliable to encompass an eye of a user so as to substantially preclude illumination of a face of the user. Dobbie also discloses the night vision device further comprising an interchangeable filter (82) disposed between the digital display and the eyepiece.

Dobbie also discloses the filter is configured to reduce night blindness. That is, the switch is connected to the system processor. Dobbie also discloses the filter is configured to enhance the contrast of the digital display. Dobbie also discloses the filter is configured to reduce the amount of light projected through the eyepiece. That is, when the switch is not connected to the image processor. Dobbie also discloses a means for filtering (82) the intensity-enhanced image. Dobbie also discloses a means (one of the element is 50) for focusing the light sensing means. Dobbie also discloses the sensor is monochromatic. Dobbie also discloses the sensor is selected from the group comprising a charge coupled device (CCD) and a complementary metal oxide silicon (CMOS) device (Col. 5, Line 65). Dobbie also discloses a filter configured to change the color of the internal video module (86). Dobbie also discloses a selectively adjusting the gain of the screen (Col. 7, Lines 1-26).

3. Regarding claims 14 and 19-24, Dobbie discloses (Figs. 1B, 7 and 8) a method for providing night vision to a user, the method comprising: receiving image data through first optics (50) into a housing; digitally enhancing the image data to create enhanced image data adjusted for low light condition (Col. 7, Lines 40-50); electronically displaying an image corresponding to the enhanced image data on a screen disposed within the housing; and providing a view of the screen through second optics (62) attached to the housing. Dobbie also discloses selectively filtering (82) the view of the screen through the second optics. Dobbie also discloses the selective filtering is based on preserving unaided visual acuity (Col. 7, Lines 45-50). Dobbie also discloses the selective filtering is based on enhancing visual quality (Col. 7, Lines 45-50). Dobbie also

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discloses providing an electronic signal corresponding to the enhanced image data to an external device (14). Dobbie also discloses remotely displaying the image. That is, the imager and the display is few inches apart from each other. Dobbie also discloses collecting light through an objective lens (50); and focusing the light onto an optical sensor (52).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dobbie in view of Bryant (US005943174A).

6. Regarding claims 1-3 and 9, Dobbie discloses the invention set forth above. Dobbie does not disclose an eye piece comprising a flexible eye cup including a pliable member capable of substantially form fitting an eye socket of a user thereby being capable of substantially precluding illumination of a face of the user by the night vision device. Bryant discloses a flexible eye cup (30A) including a pliable member capable of substantially form fitting an eye socket of a user thereby being capable of substantially precluding illumination of a face of the user by the night vision device. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include a flexible eye cup including a pliable member capable of substantially form fitting an eye socket of a user thereby being capable of substantially precluding illumination of a

face of the user by the night vision device to eliminate ambient light so the user can correctly obtained the information from the eye piece.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dobbie in view of Bryant.

8. Regarding claim 4, Dobbie in view of Bryant discloses the invention set forth above. Dobbie in view of Bryant does not disclose the use of LCD. It is well known to use LCD to display images. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use LCD to display images to make the display smaller in size which enhance the portability of the device.

9. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dobbie.

10. Regarding claim 36, Dobbie discloses the invention set forth above. Dobbie does not disclose the use of LCD. It is well known to use LCD to display images. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use LCD to display images to make the display smaller in size which enhance the portability of the device.

11. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dobbie in view of Bryant in view of Craig (US005396069A).

12. Regarding claims 5-8, Dobbie in view of Bryant discloses the invention set forth above. Dobbie in view of Bryant does not discloses the night vision comprises a light source comprises of infrared light emitting diodes with intensity control capability. It would have been obvious to a person of ordinary skill in the art at the time of the invention to implement a light source comprises of infrared light emitting diodes with

intensity control capability in a night vision goggle to enhance the light projection onto the field of interest and enhance visibility of the field.

13. Claims 15-17, 28 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dobbie in view of Craig (US005396069A).

14. Regarding claims 5-8, 15-17, 28 and 35, Dobbie discloses the invention set forth above. Dobbie does not disclose the night vision comprises a light source comprises of infrared light emitting diodes with intensity control capability. Craig discloses (Fig. 2) a night vision device with a light source comprises of infrared light emitting diodes with intensity control capability. It would have been obvious to a person of ordinary skill in the art at the time of the invention to implement a light source comprises of infrared light emitting diodes with intensity control capability in a night vision goggle to enhance the light projection onto the field of interest and enhance visibility of the field.

Response to Arguments

15. Applicant's arguments filed 9/15/05 have been fully considered but they are not persuasive. Applicant argues that Dobbie shows a video display 14, which is external to a video camera 12. The claim language used in the application states that "a housing having optics to collect light into the housing". Dobbie discloses a housing (12) which consist of the optics to collect light into the housing and shows a digital display being attached to the housing. It is understood by the examiner that the housing, in Dobbie's disclosure, consist of both the helmet, the light collecting optics and the video display

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since all the components are interconnected. For the above reason, it is believed the final rejection is proper.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Ko whose telephone number is 571-272-1926. The examiner can normally be reached on Monday-Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.